

DEPARTMENT OF STATE REVENUE

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LETTER OF FINDINGS NUMBER: 98-0318P

Withholding Tax

For The Period: September, 1997

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d), 45 IAC 15-11-2

Taxpayer protests the imposition of the penalty.

II. Tax Administration - Interest

Authority: IC 6-8.1-10-1(e)

Taxpayer protests the imposition of interest.

STATEMENT OF FACTS

After filing its September 1997 withholding tax return, taxpayer, in its yearly reconciliation found an error in reporting its tax withheld. Upon discovery of the discrepancy, the taxpayer contacted the Department and remitted on a warrant dated February 6, 1998, the balance due. On April 21, 1998 the Department issued its notice no. 98-000319757 for penalty and interest.

I. Tax Administration - Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in remitting tax due subjecting it to a negligence penalty.

Taxpayer immediately upon finding its error contacted the Department and remitted the tax due. More than two months later the Department issued its notice consisting of penalty and interest stating the return was not filed by the due date.

The original return was filed timely; however, the amount to be remitted was in error. The taxpayer, in its reconciliation found the error, notified the Department, and immediately remitted the tax due.

The department waives the penalty as the taxpayer immediately contacted the department and remitted the tax due.

FINDING

The taxpayers protest is sustained.

II. Tax Administration - Interest

DISCUSSION

The taxpayer requests interest be waived. In a discussion with the taxpayer on June 18, 1997, the taxpayer has agreed to remit the interest due as the statute IC 6-8.1-10-1(e) does not allow the waiver of interest.

FINDING

Taxpayer is denied a waiver of interest.